

REMARKS

Applicants have carefully reviewed the Final Office Action mailed on January 23, 2004. Applicants respectfully traverse Examiner's response to Applicants' arguments with regard to the 35 U.S.C. 102(b) rejection based on McIntyre et al. Applicants thank the Examiner for the withdrawal of the 35 U.S.C 102(b) rejection based on Lafontaine et al. Claims 1-21 are pending. Claims 1, 9 and 16 have been amended. Favorable reconsideration is respectfully requested in light of the above amendments and the following comments.

Rejections Under 35 U.S.C. § 102(b)

The Examiner rejected claims 1-6, 8-13, and 15-20 under 35 U.S.C. 102(b) as anticipated by McIntyre et al., U.S. Patent Number 5,334,153. McIntyre et al. teach a Tuohy-Borst type fitting (column 4, line 3) with a gasket providing a seal around the inner tubular member of a catheter system (column 5, lines 53-55). A three-way valve or stopcock may be attached to the Tuohy-Borst fitting, and would be necessary during catheter utilization to create and maintain vacuum within the lumen (column 7, lines 37-42). The Examiner asserts that McIntyre discloses a self-sealing rubber septum at column 5, lines 55-68 and column 6, lines 1-3. However, a review of these leads to a conclusion that the Examiner is in error. No self-sealing rubber septum is disclosed.

In contrast, Applicants amended independent claim 1 recites a pierceable seal. The seal (40) may be disposed on a flange proximal to the inflation lumen and may prevent air from entering the lumen (page 12, lines 9-16). McIntyre et al. teach a device with sealing gaskets that are not pierceable. The pierceable seal facilitates syringe use to remove air or add liquid from the catheter prior to or during use. The catheter having an evacuated and sealed inflation lumen may then be shipped to the end-user (page 16, lines 10-11). This can advantageously reduce end-user preparation time and risk of catheter damage during preparation (page 3, lines 10-11).

Applicants' independent claims 9 and 16 have also been amended to recite a pierceable seal. As described above, Applicants assert that a pierceable seal distinguishes over McIntyre et al. Because claims 2-8, 10-15 and 17-21 depend from independent claims 1, 9, and 16, respectively, Applicants assert they also distinguish over McIntyre et al. for the above reasons and because they recite other distinguishing elements.

Rejections Under 35 U.S.C. § 103(a)

The Examiner rejected claims 7, 14, and 21 under 35 U.S.C. 103(a) as being unpatentable over McIntyre et al. Because claims 7, 14 and 21 depend from claims 1, 9 and 16, respectively, which have been amended and distinguish over McIntyre et al., Applicants assert that claims 7, 14, and 21 are distinguishable over McIntyre et al. for these same reasons and because they include further distinguishing elements.

Reexamination and reconsideration are respectfully requested. It is respectfully submitted that all pending claims are now in condition for allowance. Issuance of a Notice of Allowance in due course is requested. If a telephone conference might be of assistance, please contact the undersigned attorney at (612) 677-9050.

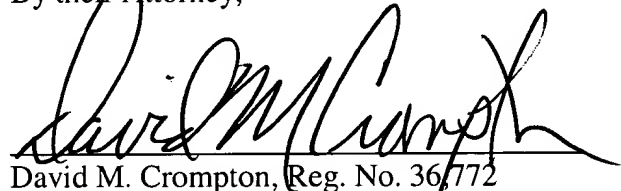
Respectfully submitted,

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By their Attorney,

Date: _____

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